

OPINION
49-32

February 17, 1949 (OPINION)

COUNTIES

RE: Commissioners - Per Diem and Expenses

Re: Section 11-10101 1947 Supplement

Your letter of February 15, 1949 has been received and sent to my desk.

You ask: "Have I a right to bill the county for \$6.00 plus \$2.00 for mileage and meals while in session one day?"

Section 11-10101 of the 1947 Supplement to the North Dakota Revised Code of 1943 by its terms applies only to meetings lasting more than one day. Therefore, the \$2.00 charge provided by subsection 2 of this section may not be charged by a commissioner if the meeting lasts one day only. If the meeting lasts over one day and continues for any part of a second day, he may charge under subsection 2 \$2.00 per day for each day of session for expenses and mileage. For a two-day session he could charge \$4.00, for a three-day session he could charge \$6.00, and for longer sessions he would be entitled to charge accordingly.

However, section 11-10101 of the 1947 Supplement does not amend section 11-1010, and under that section a county commissioner is entitled to collect his "actual transportation expenses not in excess of the amounts provided by section 54-0609," N.D.R.C. 1943.

This section provides mileage at the rate of five cents per mile for each mile actually traveled in your own car in going to and returning from the place of meeting. Therefore, if you live 11 miles from your county seat, you would be entitled to a per diem of \$6.00 for a meeting lasting one day only, plus mileage for 22 miles at five cents per mile or \$2.20, making a total charge of \$7.10. If the meeting lasts more than the one day, you would be entitled to charge \$2.00 per day as provided by section 11-10101 1947 Supplement.

WALLACE E. WARNER

Attorney General